

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK**

United States of America,

Plaintiff,

v.

One 24-Foot Hydro Yacht, hull no.
YCU00082K141024, and one aluminum
beam boat trailer,

Defendants.

Civil Action No.: 8:19-CV-265 [TJM/CFH]

VERIFIED COMPLAINT FOR FORFEITURE *IN REM*

The United States of America brings this verified complaint for forfeiture *in rem* against the above-captioned assets (the “defendant property”) and alleges as follows:

NATURE OF THE ACTION

This is an action *in rem* brought pursuant to 19 U.S.C. §§ 1703(a), 1595a(a), and Rule G of the Supplemental Rules for Certain Admiralty or Maritime Claims and Asset Forfeiture Actions. Forfeiture is sought of the 24-foot hydro yacht as a vessel fitted for the purpose of being employed to defraud the revenue of the United States or to smuggle merchandise into the United States or into the territory of a foreign government. Forfeiture is sought of the trailer as a thing used in, to aid in, or to facilitate the importation, bringing in, unlading, landing, removal, concealing, harboring or transportation of an article introduced, or attempted to be introduced, into the United States contrary to law.

THE PARTIES

1. Plaintiff is the United States of America.

2. The defendants in this case, which are in the custody of the United States, are one 24-foot Hydro Yacht vessel and one aluminum beam boat trailer.

JURISDICTION AND VENUE

3. This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §§ 1345 and 1355.

4. This Court has *in rem* jurisdiction over the defendant property pursuant to 28 U.S.C. § 1355(b)(1).

5. Venue is proper in this district pursuant to 28 U.S.C. §§ 1355 and 1395.

FACTS

6. Clyde Cree, the documented owner of the vessel at issue in this case, has previously pleaded guilty to drug trafficking in Canada and is a wanted fugitive in the United States. On November 9, 2016, he was arrested by the Akwesasne Mohawk Police Service for smuggling drugs along the Snye Channel in Quebec using a 24-foot Hydro Yacht equipped with twin 300-horsepower 2010 Evinrude E-Tec engines. At the time of his arrest, Clyde Cree was in possession of 50 pounds of marijuana. Canadian authorities seized both the drugs and the vessel.

7. This case involves another 24-foot Hydro Yacht, owned by Clyde Cree, equipped with twin 300-horsepower 2010 Evinrude E-Tec engines (hereinafter, “Clyde Cree’s yacht”).

8. Clyde Cree’s yacht has several features common to smuggling vessels.

a) It has a low observable color scheme – a light gray gel coat – making it difficult to see during the day or night.

b) It lacks a stern pole light, which is typical for smuggling boats as they tend to operate at night and without proper lighting to avoid detection.

c) It is equipped with twin 300-horsepower Evinrude E-Tec engines, which are more powerful than engines typically found on recreational boats of this size.

d) It has an open deck, center console design with a two-person leaning post, which provides ample space to load, carry, and unload large volumes of cargo.

e) It is outfitted with a 100-gallon fuel tank. Legitimate boat builders typically equip passenger vessels with much smaller fuel tanks for balance and safety purposes.

9. Clyde Cree's yacht, equipped as it was, would not have been viable as a fishing or pleasure boat.

a) Despite being 24-feet in length, it lacks cushioned seating, forward/aft grab rails, and other comforts and safety features typically found on passenger vessels.

b) It has no accommodations or rigging for recreational/sport fishing usage and, when seized, authorities found no fishing or recreational gear on board.

10. Clyde Cree's yacht also had significant damage to the keel and lower bow areas suggesting that it had hit one or more hard objects while operating in shallow water at high speed in reverse.

11. Clyde Cree's yacht does not appear to have been registered with any federal, state, local, or tribal government.

12. The trailer seized with Clyde Cree's yacht does not appear to have been registered with any federal, state, local, or tribal government.

13. Smugglers seldom register vessels and trailers to avoid a paper trail of ownership in case the items are encountered or seized by law enforcement.

14. Clyde Cree's yacht was impounded by the St. Regis Mohawk Tribal Police in late April 2017, as stolen property that no one established ownership of to the satisfaction of tribal

authorities. The St. Regis Mohawk Tribal Police turned the vessel over to the U.S. Department of Homeland Security (DHS) based on DHS's belief that the vessel – which is identical in all material respects to the one authorities seized from Clyde Cree five months prior – was used to smuggle contraband into the United States.

15. On April 9, 2017, at approximately 7:56 p.m., a Royal Canadian Mounted Police (RCMP) marine unit vessel received an alert from Canadian law enforcement aircraft that Clyde Cree's yacht had been spotted traveling eastbound at a high rate of speed on the St. Lawrence River near the south side of Hamilton Island, Ontario. The vessel, which was not displaying navigation lights, appeared to be carrying several garbage bags.

16. Five minutes later, at approximately 8:01 p.m., the RCMP observed the same vessel traveling eastbound, without displaying navigation lights, near Ross Island, Ontario.

17. At approximately 8:53 p.m., the RCMP observed Clyde Cree's yacht with two persons on-board along the Canadian shoreline. Shortly thereafter, the RCMP witnessed several bags being offloaded from the vessel into a van. When the RCMP attempted to intervene, the vessel backed away from the shoreline.

18. As a RCMP marine unit attempted to stop the vessel, Clyde Cree's yacht collided with the RCMP marine unit causing damage to both boats. Clyde Cree's yacht fled with two passengers onboard.

19. RCMP recovered contraband bulk tobacco on the land near the van and in the water.

20. Canadian law enforcement aircraft observed Clyde Cree's yacht as it fled the scene and crossed into the United States and made landing at the end of Tony Barnes Road, in Akwesasne, New York.

21. On July 21, 2018 Clyde Cree's brother, Kenneth Cree, filed an administrative claim for Clyde Cree's yacht and trailer. On the claim form, which was filed under penalty of perjury, Kenneth Cree wrote that he is the "sole owner" of both items. In support of his claim, Kenneth Cree attached a document, dated December 7, 2014, and entitled "CERTIFICATE OF ORIGIN FOR WATERCRAFT." That document, which is attached hereto as Exhibit A, actually identifies "Clyde V. Cree" (*i.e.*, Kenneth Cree's fugitive brother) as the sole owner of the 24-foot Hydro Yacht bearing hull number YCU00082K141024.

CONCLUSION

22. As required by Supplemental Rule G(2)(f), the facts set forth above support a reasonable belief that the government will be able to meet its burden of proof at trial.

WHEREFORE, pursuant to Supplemental Rule G, plaintiff the United States of America, respectfully requests that the Court:

- (1) Issue a Warrant of Arrest *In Rem*, in the form submitted with this Complaint;
- (2) Direct any person having any claim to the defendant property to file and serve their Verified Claims and Answers as required by 18 U.S.C. § 983(a)(4) and Supplemental Rule G;
- (3) Enter judgment declaring the defendant property to be forfeited and condemned to the use and benefit of the United States; and
- (4) Award such other and further relief to the United States as it deems proper and just.

Dated: February 25, 2019

Respectfully Submitted,

GRANT C. JAQUITH
United States Attorney

By: /s/ Adam J. Katz
Adam J. Katz
Assistant United States Attorney
Bar Roll No. 515310

VERIFICATION

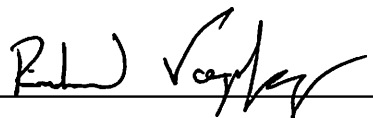
STATE OF NEW YORK)
) ss:
COUNTY OF ESSEX)

Richard L Vogelzang being duly sworn, deposes and states:

I am a Special Agent with Homeland Security Investigations. I have read the foregoing Complaint for Forfeiture and assert that the facts contained therein are true to the best of my knowledge and belief, based upon knowledge possessed by me and/or on information received from other law enforcement officers.

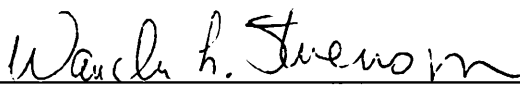
Dated this 22nd day of February, 2019.

WANDAL L. STEVENSON
Notary Public State of New York
No. 01ST6223231
Qualified in St. Lawrence County
Commission Expires June 7, 2022



Richard L. Vogelzang, Special Agent |
Homeland Security Investigations |

Sworn to and subscribed before me this 22nd day of February, 2019.



Notary Public

EXHIBIT A

CERTIFICATE OF ORIGIN FOR WATERCRAFT

DATE: December 7, 2014

HULL IDENTIFICATION NUMBER:
YCU 00082 K 14 10

COLOR: Grey
MAKE: 24 ft. Hydro Yacht

OWNER: Clyde V Cree
55 Paul Cree RD
Akwesasne, QC H0M 1A1

Name of Manufacturer, Dealer, Distributor:
Manufacturer Identification Code "YCU"

Hydro Yacht of Akwesasne
445 Wade Lafrance Mem. Road
Akwesasne, QC H0M 1A1

THIS MANUFACTURER CERTIFIES THAT THIS PRODUCT COMPLIES WITH THE CONSTRUCTION STANDARDS FOR SMALL VESSELS AS MANDATED BY TRANSPORT CANADA SAFETY AND SECURITY, OFFICE OF BOATING SAFETY. IT IS FURTHER CERTIFIED THAT THIS WAS THE FIRST TRANSFER OF SUCH NEW WATER CRAFT KNOWN AS HYDRO YACHT IN ORDINARY TRADE AND COMMERCE.

Manufacturer of Hydro Yacht

By: [Signature]
(Signature of Authorized Representative)

CBB-1586
NOV 07 2014
RECEIVED

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS

UNITED STATES OF AMERICA

(b) County of Residence of First Listed Plaintiff Albany
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorney's (Firm Name, Address, and Telephone Number)
Adam J. Katz, Assistant U.S. Attorney (518) 431-0247
United States Attorney's Office, 445 Broadway,
Albany, New York 12207

DEFENDANTS

One 24-Foot Hydro Yacht, hull no.
YCU00082K141024, and one aluminum beam boat trailer

County of Residence of First Listed Defendant Essex
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE
LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☒ 1 U.S. Government Plaintiff
☐ 2 U.S. Government Defendant
☐ 3 Federal Question (U.S. Government Not a Party)
☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|---|----------------------------|----------------------------|--|----------------------------|----------------------------|
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated <i>or</i> Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated <i>and</i> Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury PERSONAL INJURY <input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input checked="" type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 463 Habeas Corpus - Alien Detainee <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition			

V. ORIGIN

(Place an "X" in One Box Only)

- ☐ 1 Original Proceeding
☐ 2 Removed from State Court
☐ 3 Remanded from Appellate Court
☐ 4 Reinstated or Reopened
☐ 5 Transferred from another district (specify)
☐ 6 Multidistrict Litigation
☐ 7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

19 USC 1703(a) and 1595a(a)

Brief description of cause:

VII. REQUESTED IN COMPLAINT:☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☐ Yes ☐ No**VIII. RELATED CASE(S) IF ANY**

(See instructions):

JUDGE

DOCKET NUMBER

DATE

SIGNATURE OF ATTORNEY OF RECORD

02/25/2019

s/Adam J. Katz

FOR OFFICE USE ONLY

RECEIPT # WAIVED AMOUNT

APPLYING IFP

JUDGE TJM

MAG. JUDGE

CFH